



August 11, 2009

Centers for Disease Control and Prevention
United States Department of Health and Human Services
Attn: Part 34 NPRM Comments
1600 Clifton Road, NE MSE-03
Atlanta, Georgia 30333

Re: Docket No. CDC-2008-0001: Medical Examination of Aliens-Removal of Human Immunodeficiency Virus (HIV) Infection from Definition of Communicable Disease of Public Health Significance

Dear Secretary Sebelius,

On behalf of the International Gay and Lesbian Human Rights Commission (IGLHRC), I support the removal of HIV infection from the list of "communicable diseases of public health significance." The HIV entry ban violates the fundamental right to be free from discrimination, the right to life and personal security and the right to freedom of movement under international law and policy by requiring mandatory testing for HIV infection, excluding those people who are HIV positive, and requiring them to have a waiver to enter the country. These are rights recognized by the Universal Declaration of Human Rights and are implicitly or expressly encoded in almost every human rights treaty.

Article 42 of the International Health Regulations, a binding instrument of international law to which the United States of America is a party requires that "[h]ealth measures taken pursuant to these Regulations shall be ... applied in a transparent and non-discriminatory manner." According to the United Nations Guidelines on HIV/AIDS and Human Rights (*hereinafter* Guidelines) exclusion based on HIV status infringes on basic human rights because "[t]here is no public health rationale for restricting liberty of movement or choice of residence on the grounds of HIV status. ...[A]ny restrictions on those rights based on suspected or real HIV-status alone, including HIV screening of international travelers, are discriminatory and cannot be justified by public health concerns."

The Human Rights Committee has affirmed the right to equal protection in law or in practice under the International Covenant on Civil and Political Rights (ICCPR) in any fields regulated or protected by public authorities (General Comment 18 on Non-discrimination). The Guidelines include travel regulations, entry requirements, immigration and asylum procedures among these fields. Therefore, even though there is no right of aliens to enter a foreign country, discrimination on the grounds of HIV status in the context of travel regulations, entry requirements, immigration and asylum procedures violates the right to equality before the law.

The HIV entry ban, written in 1987 when HIV was not well understood, unfairly sets people with

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HIV apart from those with other diseases and disabilities, despite the fact that HIV is not transmitted casually. It plays into hostility and hatred toward persons with HIV. This ban has long been used to target marginalized groups of people for exclusion, including men who have sex with men. Rather than promoting the human rights of people in need of protection, it promotes social stigma and isolation for people who are HIV positive both within and outside the United States. This stigma and discrimination decreases the accessibility and availability of HIV education and treatment, increasing the risk to people with HIV/AIDS and to the global public health.

To ensure equality and public health, we call on you to end this ban and remove HIV infection from the list of communicable diseases of public health significance.

Sincerely,

International Gay and Lesbian Human Rights Commission

The International Gay and Lesbian Human Rights Commission's mission is to advance human rights for everyone, everywhere to end discrimination based on sexual orientation, gender identity, and gender expression. A non-profit, non-governmental organization, IGLHRC is based in New York, with offices in Cape Town and Buenos Aires.
www.iglhrc.org

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